

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS (b) County of Residence of First Listed Plaintiff <u>Philadelphia, PA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i> (b) Attorneys (Firm Name, Address, and Telephone Number) <u>Lawrence Kalikhman, Esquire, Kalikhman & Rayz, LLC, 1051 County Line Road, Suite A, Huntingdon Valley, PA 19006, Phone: 215-364-5030</u>	DEFENDANTS County of Residence of First Listed Defendant <u>Rockland County, NY</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (if Known): <u>John M. Guthrie, Esquire, Law Offices of Terkowitz & Hermesmann, 309 Fellowship Road, Suite 200, Mt. Laurel, NJ 08054, phone: 856-642-4012</u>
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">(For Diversity Cases Only)</th> <th style="text-align: center; border-bottom: 1px solid black;">PTF</th> <th style="text-align: center; border-bottom: 1px solid black;">DEF</th> <th style="text-align: center; border-bottom: 1px solid black;">PTF</th> <th style="text-align: center; border-bottom: 1px solid black;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	(For Diversity Cases Only)	PTF	DEF	PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input checked="" type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6																	

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify) _____
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 1332(a)(2)

Brief description of cause: Motor vehicle accident - PA - NY Citizens

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMANDS MORE THAN 950,000
CHECK YES only if demanded in complaint: **JURY DEMAND:** ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 6/29/17

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

Print

Save As...

Reset

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD KRUSE,)	
)	
Plaintiff,)	Case No.:
)	
vs.)	
)	
LUIS M. FERREIRA AND FISCHER FOODS)	
OF NEW YORK, INC.,)	
Defendants.)	

TO: THE HONORABLE JUDGES OF
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PLEASE TAKE NOTICE that on this date, defendants, Richard Kruse and Fischer Foods of New York, hereby file this Notice of Removal pursuant to 28 U.S.C. 1446(a), 28 U.S.C.A. 1332(a)(2) and 28 U.S.C. 141(a) together with all process, pleadings and orders as required by 28 U.S.C. 1446(a), true copies of which are attached hereto, in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, Philadelphia, Pennsylvania.

Defendants, Richard Kruse and Fischer Foods of New York, by their undersigned attorneys, respectfully show this Court that:

1. The removing parties are Defendants in a civil action and are represented by the undersigned.
2. On or about May 25, 2017, Plaintiff commenced this case against the removing parties in the Court of Common Pleas of Pennsylvania, Philadelphia County, 170503713, May Term, 2017, and it is now pending therein. *See Complaint* (attached as Exhibit "A").
3. On or about June 3, 2017 the removing Defendant Luis M. Ferreira was served with the Summons and Complaint in this case by mail. See Certified Mail Delivery Tracking for Luis Ferreira attached hereto as Exhibit "B". It is unknown if Fischer Foods of New York, Inc. was lawfully served with process. The Complaint recites an address of 1172 Burnett Place, Bronx, New York 10474-5719 for defendant Fischer Foods of New York, Inc. (See Exhibit "A", paragraph 3). This address is incorrect.

4. No further proceedings have occurred in this case in State court.

5. The Plaintiff's attorney has not made a monetary demand, other than alleging significant injuries and stating in the ad damnum clause of the Complaint that damages are sought in excess of \$50,000. Exh. A, "Wherefore" Clause. However, prior to suit, Plaintiff attorney's last demand was \$95,000.

6. Moreover, in his Complaint, Plaintiff asserts serious and permanent personal injuries including, but not limited to the following body parts: "the bones, muscles, tendons, ligaments, nerves and tissues in, of and/or about her [sic] head neck, shoulders, back, body and limbs, including but not limited to herniated cervical discs and/or aggravation thereof, confirmed by MRI, cervical radiculopathy confirmed by EMG/NCV testing, lumbar radiculopathy, thoracic disc hernation and/or aggravation thereof by MRI; lumbar disc hernation and bulge and/or aggravation thereof, confirmed by MRI, pelvic instability with misalignment of the iliac crest and acetabulum bilaterally cervical, thoracic and lumbar sprain/strain, left knee contusion; as well as other injuries".

7. In light of the above, Defendants have a good faith belief that Plaintiff contends the amount in controversy in this matter exceeds \$75,000, exclusive of interest and costs. The undersigned defense counsel has been involved in other cases where similar injuries were alleged in Philadelphia County and the settlement demands/value of those cases has universally been stated to be in excess of \$75,000.

8. Plaintiff is Pennsylvania resident, residing at 6304 Cottage Street, Philadelphia, PA.

9. The Defendant Fischer Foods of New York was at the time of the subject accident and is now a New York corporation with its principal place of business located at 200 Brenner Drive, Congers, New York.

10. Defendant Luis M. Ferreira was at the time of the subject accident a resident and citizen of New York and has an address of 137 Maple Avenue, Apartment 38, Haverstraw, NY 10927. Mr. Ferreira was at all relevant times an employee of Fischer Foods of New York at the time of this accident. Mr. Ferreira is currently a New York resident and citizen.

11. This case involves Plaintiff's allegations that the Defendants were negligent in an automobile accident that caused the plaintiff to be injured, allegedly sustaining personal injuries. The amount in controversy required pursuant to 28 U.S.C. 1332 is satisfied because of the nature of the alleged personal injury in this matter.

12. This Court has original jurisdiction of this case pursuant to 28 U.S.C. 1332, diversity of citizenship and the action may be removed to this Court pursuant to 28 U.S.C. 1441, in that there is complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of costs and interest.

13. A copy of plaintiff's Complaint with Notice to Defend filed in this case are attached as Exhibit "A". To the best of the moving party's knowledge, these are the only pleadings filed in the State Court to date.

14. This notice is filed with the Court within thirty (30) days after receipt by the removing parties of a copy of the Complaint in this case. Defendants expressly reserve their right to challenge the method of service as ineffective and to challenge personal jurisdiction over these defendants in the Courts of Pennsylvania.

15. Upon receipt of a filed Notice of Removal, this Defendant will provide a copy of the Notice of Removal to the Prothonotary of the Court of Common Pleas of Pennsylvania, Philadelphia County.

WHEREFORE, the removing parties pray that this case be removed from the Court of Common Pleas of Pennsylvania, Philadelphia County, to this Court pursuant to 28 U.S.C. 1441(a) and 1452.

Dated: June 29, 2017

/s/ John M. Guthrie

By: John M. Guthrie, Esq. (JG2024)
Law Offices of Terkowitz & Hermesmann
309 Fellowship Road, Suite 200
Mount Laurel, NJ 08054
856-642-4012
jguthrie@hanover.com

Attorney for Defendants Richard Kruse and Fischer
Foods of New York

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD KRUSE,

Plaintiff,

vs.

**LUIS M. FERREIRA AND FISCHER FOODS
OF NEW YORK, INC.,**

Defendants.

Case No.:

CERTIFICATION OF SERVICE

I hereby certify that on June 29, 2017 the within Notice of Removal on behalf of defendants, Richard Kruse and Fischer Foods of New York, was filed with the United States District Court Eastern District of Pennsylvania and sent via regular U.S. Postal mail and/or email, and made available for viewing upon the following counsel of record:

Lawrence Kalikhman, Esquire
Kalikhman & Rayz, LLC
1051 County Line Road, Suite A
Huntingdon Valley, PA 19006
215-364-5030 Fax: 215-364-5029
lkalikhman@kalraylaw.com

/s/ John M. Guthrie

John M. Guthrie, Esquire
Law Offices of Terkowitz & Hermesmann
309 Fellowship Road, Suite 200
Mt. Laurel, NJ 08054
(856) 642-4012
jguthrie@hanover.com

Dated: June 29, 2017

Exhibit A

MAJOR JURY

2V – MOTOR VEHICLE COLLISION

KALIKHMAN & RAYZ, LLC

Lawrence Kalikhman, Esquire

Identification No. 93624

1051 County Line Road, Suite "A"

Huntingdon Valley, PA 19006

Phone: (215) 364-5030

Fax: (215) 364-5029

E-mail: lkalikhman@kalraylaw.com

Attorneys for Plaintiff(s)

Filed and Attested by the
Office of Judicial Records
25 MAY 2017 01:34 pm
K. EDWARDS

RICHARD KRUSE

Plaintiff(s)

v.

LUIS M. FERREIRA

FISCHER FOODS OF NEW YORK, INC.

Defendant(s)

**COURT OF COMMON PLEAS
PHILADELPHIA COUNTY**

May Term, 2017

Docket No.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL & INFORMATION SERVICE
ONE READING CENTER
PHILADELPHIA, PA 19107
TELEPHONE: (215) 238-1701**

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, le corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**SERVICIO DE REFERENCIA LEGAL
ONE READING CENTER
FILADELFIA, PA 19107
TELEFONO: (215) 238-1701**

KALIKHMAN & RAYZ, LLC

Lawrence Kalikhman, Esquire
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Huntingdon Valley, PA 19006
Phone: (215) 364-5030
Fax: (215) 364-5029
E-mail: lkalikhman@kalraylaw.com

Attorneys for Plaintiff(s)

RICHARD KRUSE
6304 COTTAGE STREET
PHILADELPHIA, PA 19135

Plaintiff(s)

v.

LUIS M. FERREIRA
C/O FISCHER FOODS OF NEW YORK, INC.
200 BRENNER DRIVE
CONGERS, NY 10920

AND

FISCHER FOODS OF NEW YORK, INC.
200 BRENNER DRIVE
CONGERS, NY 10920

Defendant(s)

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

May Term, 2017

Docket No.

COMPLAINT – CIVIL ACTION
2V – MOTOR VEHICLE COLLISION

1. Plaintiff, Richard Kruse (hereinafter "Plaintiff"), is an adult individual and a citizen of the Commonwealth of Pennsylvania who resides at the above-captioned address.

2. Defendant, Luis M. Ferreira (hereinafter "Ferreira"), is an adult individual and a citizen of the State of New York who upon information and belief at all times relevant hereto, maintained a business address at the above-captioned address.

3. Defendant Fischer Foods of New York, Inc., (hereafter "Fischer") is a corporation formed in the State of New York with an office located at the above captioned address and a registered principal place of business at 1172 Burnett Place, Bronx, New York, 10474-5719.

4. At all times relevant hereto, Defendant, Ferreira, was the authorized agent, servant, borrowed servant, workman and/or employee of Defendant, Fischer and was operating a motor vehicle (truck) which was owned, maintained and/or controlled by Defendant, Fischer, within the course and scope of his employment and/or with Fischer's express, implied and/or apparent permission, authorization and/or consent.

5. Defendant, Fischer, is upon information and belief, a New York corporation or other form of business entity with a principal place of business located at the above-captioned address. Defendant, Fischer, regularly, continuously and systematically conducts business within the City and County of Philadelphia, Commonwealth of Pennsylvania.

6. At all times material to this Complaint, Defendant, Fischer, acted and/or failed to act in person and/or through duly authorized agents, servants, workmen, and/or employees, acting within the scope and course of their authority and/or employment, including Defendant, Ferreira.

7. The facts and occurrences hereinafter related took place on or about June 15, 2015, at approximately 6:16 a.m., on westbound I-676, Philadelphia, Pennsylvania.

8. At the date, time and place aforesaid, Plaintiff was operating his automobile westbound on I-676 in Philadelphia, Pennsylvania, and was lawfully and appropriately slowing and braking for slowing and/or stopped traffic ahead.

9. At the date, time and place aforesaid, Defendant, Ferreira, was the operator of a motor vehicle which was owned by Defendant, Fischer, and which was proceeding westbound on I-676, Philadelphia, Pennsylvania, directly behind the Plaintiff's automobile.

10. At the date, time and place aforesaid, Defendant, Ferreira, individually, jointly and/or severally, suddenly and without any warning, negligently and carelessly operated his motor vehicle, violently crashing into the rear of the Plaintiff's automobile.

11. At the date, time and place aforesaid, there were no mechanical defects with the vehicle being operated by Defendant, Ferreira, and owned by Defendant, Fischer, prior to the

collision described herein.

12. At the date, time and place aforesaid, Defendant, Ferreira, had a clear view and/or in the exercise of reasonable care required of all operators of motor vehicles upon the roadways of the Commonwealth of Pennsylvania, should have had a clear view of the Plaintiff's automobile directly in front of his and lawfully and appropriately slowing and braking for slowing and/or stopped traffic ahead, prior to crashing into that automobile.

13. The aforesaid collision was caused solely by the negligence and carelessness of the Defendant, Ferreira, individually, jointly and/or severally, and was not due to any act or failure to act on the part of the Plaintiff.

14. As a result of the foregoing events, Plaintiff sustained serious and permanent bodily injuries more fully described hereinafter.

COUNT I
PLAINTIFF V. FERREIRA

15. Plaintiff incorporates by reference, the allegations of paragraphs 1 through 13, as if the same were set forth at length herein pursuant to Pa.R.C.P. 1019(g).

16. At all times relevant hereto, Defendant, Ferreira, was negligent and careless in the operation of his motor vehicle, individually, jointly and/or severally, in that he failed to keep his motor vehicle under adequate and proper control, thereby crashing into the rear of the Plaintiff's automobile which was then and there lawfully and appropriately slowing and braking for slowing and/or stopped traffic ahead on westbound I-676 as aforesaid.

17. At all times relevant hereto, the negligence and carelessness of the Defendant, Ferreira, individually, jointly and/or severally, consisted of the following:

- a. Failing to keep his motor vehicle under such control so as to be able to appropriately stop and/or slow down said vehicle without causing a collision with Plaintiff's automobile;
- b. Causing a vehicular collision;

- c. Being inattentive;
- d. Failing to operate his motor vehicle with due regard to the rights, safety and position of the Plaintiff's automobile;
- e. Failing to properly observe and pay attention to the road and the roadway ahead and to the vehicles thereon;
- f. Operating the motor vehicle at an excessive rate of speed for allowable conditions;
- g. Failing to obey traffic control devices;
- h. Failing to take necessary action to avoid and/or evade the collision;
- i. Failing to perform vehicle safety inspection and/or pre-trip inspection prior to operating his motor vehicle;
- j. Operating his motor vehicle at an unsafe speed such that it could not be stopped within a reasonable distance in violation of the statutory rules of the road of the Commonwealth of Pennsylvania, particularly 75 Pa.C.S.A §3361, rendering Defendant's conduct negligent *per se*; and
- k. Driving a vehicle with careless disregard for the safety of persons or property in violation of the statutory rules of the road of the Commonwealth of Pennsylvania, specifically 75 Pa.C.S.A. §3714, rendering Defendant's conduct negligent, *per se*.

18. As a direct and proximate result of Defendant, Ferreira's negligence and carelessness as aforesaid, individually, jointly and/or severally, Plaintiff did and/or may have sustained severe and permanent injuries to the bones, muscles, tendons, ligaments, nerves and tissues in, of, and/or about her head, neck, shoulders, back, body and limbs, including but not limited to herniated cervical discs and/or aggravation thereof, confirmed by MRI, cervical radiculopathy confirmed by EMG/NCV testing, lumbar radiculopathy, thoracic disc herniation and/or aggravation thereof, confirmed by MRI; lumbar disc herniation and bulge and/or

aggravation thereof, confirmed by MRI, pelvic instability with misalignment of the iliac crest and acetabulum bilaterally, cervical, thoracic and lumbar sprain/strain, left knee contusion; as well as other injuries, the extent and nature of which are as yet not fully determined. In addition, Plaintiff did and/or may have sustained post-incident traumatic limitation of motion, severe aches and pains, mental anguish concomitant with his physical injuries and severe nervous shock. The injuries and conditions suffered by Plaintiff are believed to be permanent in nature and have in the past and may in the future cause the Plaintiff great pain and suffering. Plaintiff has been and will in the future be prevented from pursuing his usual duties, activities, goals and/or daily affairs. (It is specifically maintained that this paragraph has been drafted by and is the language of Plaintiff's counsel, is meant to be all encompassing as to the potential injuries suffered by Plaintiff, and, in fact, some of the injuries alleged and/or outlined herein may not have actually been suffered. The medical investigation is continuing in this regard.)

19. By reason of the aforesaid negligence and carelessness of the Defendant, Ferreira, individually, jointly and/or severally, the Plaintiff has been in the past and may in the future be obliged to expend large sums of money for medicines and medical attention, in and about endeavoring to treat and cure himself of his aforesaid injuries.

20. The Plaintiff further avers that as a result of the aforesaid occurrence, he has in the past and may in the future be unable to attend to his normal and usual duties, affairs, avocations and occupations, to his great financial damage and loss.

21. The Plaintiff further avers that as a result of the aforesaid collision, he has suffered a serious impairment to his body function, such that he suffered not only an impairment to one, or more, of his body functions, but said injuries and impairment have had a significant impact upon his ability to perform his normal, usual and customary duties and functions.

22. The Plaintiff further avers that as a result of the negligence and careless of the Defendant, Ferreira, individually, jointly and/or severally, he has in the past and may in the future suffer severe physical pain, mental anguish concomitant with his physical injuries,

humiliation and loss of life's pleasures.

WHEREFORE, Plaintiff demands judgment against the Defendant, Ferreira, individually, jointly and/or severally, for an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with damages for delay as permitted by Rule 238, those costs that are permitted by Court Rule and included in a Bill of Costs and any other damage that is permitted by the Court or by Court Rule.

COUNT II
PLAINTIFF V. FISCHER

23. Plaintiff incorporates by reference, the allegations of paragraphs 1 through 21, as if the same were set forth at length herein pursuant to Pa.R.C.P. 1019(g).

24. At all times relevant hereto, the negligence and carelessness of Defendant, Fischer, acting individually, jointly and/or severally, and/or by and through Defendant, Fischer, consisted of the following:

- a. Failing to keep his motor vehicle under such control so as to be able to appropriately stop and/or slow down said vehicle without causing a collision with Plaintiff's automobile;
- b. Causing a vehicular collision;
- c. Being inattentive;
- d. Failing to operate his motor vehicle with due regard to the rights, safety and position of the Plaintiff's automobile;
- e. Failing to properly observe and pay attention to the road and the roadway ahead and to the vehicles thereon;
- f. Operating the motor vehicle at an excessive rate of speed for allowable conditions;
- g. Failing to obey traffic control devices;
- h. Failing to take necessary action to avoid and/or evade the collision;

- i. Failing to perform vehicle safety inspection and/or pre-trip inspection prior to operating his motor vehicle;
- j. Operating his motor vehicle at an unsafe speed such that it could not be stopped within a reasonable distance in violation of the statutory rules of the road of the Commonwealth of Pennsylvania, particularly 75 Pa.C.S.A §3361, rendering Defendant's conduct negligent *per se*; and
- k. Driving a vehicle with careless disregard for the safety of persons or property in violation of the statutory rules of the road of the Commonwealth of Pennsylvania, specifically 75 Pa.C.S.A. §3714, rendering Defendant's conduct negligent, *per se*.

25. At all times relevant hereto, the negligence and carelessness of Defendant, Fischer, acting individually, jointly and/or severally, and/or by and through Defendant, Ferreira, further consisted of the following:

- a. Permitting an incompetent driver to operate its motor vehicle;
- b. Failing to determine whether Defendant, Ferreira, possessed the necessary driving skills and/or possessed the necessary mental and/or physical ability to exercise such driving skills;
- c. Failing to instruct Defendant, Ferreira, in the proper method of operating a motor vehicle;
- d. Failing to determine the competency of Defendant, Ferreira, to operate the motor vehicle in use at the time of the aforesaid collision;
- e. Failing in its authority to control Defendant, Ferreira's conduct in regard to the manner in which he was operating the vehicle, at the time and place of the collision as described herein;
- f. Allowing its dangerous, unsafe and/or defective motor vehicle to be operated on a public highway;;

- g. Failing to inspect its motor vehicle and/or maintain its motor vehicle in a safe and non-defective condition; and;
- h. Negligently and/or carelessly entrusting its motor vehicle to Defendant, Ferreira.

26. As a direct and proximate result of Defendant, Fischer's negligence and carelessness as aforesaid, individually, jointly and/or severally, and/or by and through Defendant, Ferreira, Plaintiff did and/or may have sustained severe and permanent injuries to the bones, muscles, tendons, ligaments, nerves and tissues in, of, and/or about her head, neck, shoulders, back, body and limbs, including but not limited to herniated cervical discs and/or aggravation thereof, confirmed by MRI, cervical radiculopathy confirmed by EMG/NCV testing, lumbar radiculopathy, thoracic disc herniation and/or aggravation thereof, confirmed by MRI; lumbar disc herniation and bulge and/or aggravation thereof, confirmed by MRI, pelvic instability with misalignment of the iliac crest and acetabulum bilaterally, cervical, thoracic and lumbar sprain/strain, left knee contusion; as well as other injuries, the extent and nature of which are as yet not fully determined. In addition, Plaintiff did and/or may have sustained post-incident traumatic limitation of motion, severe aches and pains, mental anguish concomitant with his physical injuries and severe nervous shock. The injuries and conditions suffered by Plaintiff are believed to be permanent in nature and have in the past and may in the future cause the Plaintiff great pain and suffering. Plaintiff has been and will in the future be prevented from pursuing his usual duties, activities, goals and/or daily affairs. (It is specifically maintained that this paragraph has been drafted by and is the language of Plaintiff's counsel, is meant to be all encompassing as to the potential injuries suffered by Plaintiff, and, in fact, some of the injuries alleged and/or outlined herein may not have actually been suffered. The medical investigation is continuing in this regard.)

27. By reason of the aforesaid negligence and carelessness of the Defendant, Fischer, individually, jointly and/or severally, and/or by and through Defendant, Ferreira, the

Plaintiff has been in the past and may in the future be obliged to expend large sums of money for medicines and medical attention, in and about endeavoring to treat and cure himself of his aforesaid injuries.

28. The Plaintiff further avers that as a result of the aforesaid occurrence, he has in the past and may in the future be unable to attend to his normal and usual duties, affairs, avocations and occupations, to his great financial damage and loss.

29. The Plaintiff further avers that as a result of the aforesaid collision, he has suffered a serious impairment to his body function, such that he suffered not only an impairment to one, or more, of his body functions, but said injuries and impairment have had a significant impact upon his ability to perform his normal, usual and customary duties and functions.

30. The Plaintiff further avers that as a result of the negligence and careless of the Defendant, Fischer, individually, jointly and/or severally, and/or by and through Defendant, Ferreira, he has in the past and may in the future suffer severe physical pain, mental anguish concomitant with his physical injuries, humiliation and loss of life's pleasures.

WHEREFORE, Plaintiff demands judgment against the Defendant, Fischer, individually, jointly and/or severally, for an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with damages for delay as permitted by Rule 238, those costs that are permitted by Court Rule and included in a Bill of Costs and any other damage that is permitted by the Court or by Court Rule.

Respectfully submitted,
KALIKHMAN & RAYZ, LLC



Lawrence Kalikhman, Esquire
Attorney for Plaintiff(s)

Date: May 25, 2017

VERIFICATION

I, the undersigned, hereby verifies that I am the named plaintiff in the foregoing action and that the facts set forth in the Complaint are true and correct the best of my knowledge, information and belief. I am aware that said statements are made subject to the penalties relating to unsworn falsifications to authorities.

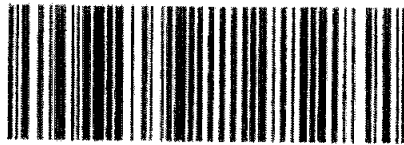


RICHARD F KRUSE JR

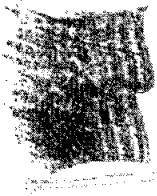
KALIKHMAN & RAYZ, LLC
ATTORNEYS AND COUNSELORS AT LAW
1051 COUNTY LINE ROAD, SUITE "A"
HUNTINGDON VALLEY, PA 19006



7014 2120 0002 9034 4772



CERTIFIED MAIL



Luis M. Ferreira
137 Maple Avenue
Apartment 38
Haverstraw, NY 10927

Exhibit B

6/21/2017

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See Available Actions

Postal Product:

Features:
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DATE & TIME	STATUS OF ITEM	LOCATION
June 3, 2017, 1:54 pm	Delivered, Left with Individual ▲	HAVERSTRAW, NY 10927
Your item was delivered to an individual at the address at 1:54 pm on June 3, 2017 in HAVERSTRAW, NY 10927.		
June 3, 2017, 9:13 am	Out for Delivery	HAVERSTRAW, NY 10927
June 3, 2017, 9:03 am	Sorting Complete	HAVERSTRAW, NY 10927
June 3, 2017, 8:32 am	Arrived at Unit	HAVERSTRAW, NY 10927

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

RICHARD KRUSE,)	
)	
Plaintiff,)	Case No.:
)	
vs.)	
)	
LUIS M. FERREIRA AND FISCHER FOODS)	
OF NEW YORK, INC.,)	
Defendants.)	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy of all defendants. (See §1:03 of the plan set forth on the reverse side of this form). In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation from specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

June 29, 2017
Date

/s/ John Guthrie
Attorney-at-law
Roberto K. Paglione

Attorney for Richard Kruse
and Fischer Foods of New York

856-642-4012
Telephone

856-642-4013
Fax Number

jguthrie@hanover.com
E-mail Address

TON

17

2976

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 6304 Cottage Street, Philadelphia, PA 19135

Address of Defendants: 200 Brenner Drive, Congers, NY 10920

Place of Accident, Incident or Transaction: westbound I-676, Philadelphia, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? No

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes () No (XX)

Does this case involve multidistrict litigation possibilities? Yes () No (XX)

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes () No (XX)

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes () No (XX)

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes () No (XX)

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes () No (XX)

CIVIL: (Place X in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. () Indemnity Contract, Marine Contract, and All Other Contracts
2. () FELA
3. () Jones Act-Personal Injury
4. () Antitrust
5. () Patent
6. () Labor-Management Relations
7. () Civil Rights
8. () Habeas Corpus
9. () Securities Act(s) Cases
10. () Social Security Review Cases
11. () All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. () Insurance Contract and Other Contracts
2. () Airplane Personal Injury
3. () Assault, Defamation
4. () Marine Personal Injury
5. (XX) Motor Vehicle Personal Injury
6. () Other Personal Injury (Please specify)
7. () Products Liability
8. () Products Liability — Asbestos
9. () All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, John M. Guthrie, counsel of record do hereby certify:

- () Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- () Relief other than monetary damages is sought.

June 29, 2017

Date

Attorney-at-Law

94972

Attorney I.D.#

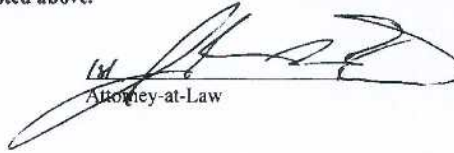
NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

JUN 30 2017

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

June 29, 2017
Date

CIV. 609


Attorney-at-Law

94972
Attorney I.D.#

JUN 30 2017